

FIRST REGULAR SESSION

# HOUSE BILL NO. 1293

## 102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HARDWICK.

2685H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal section 393.1030, RSMo, and to enact in lieu thereof one new section relating to the renewable energy standard.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 393.1030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.1030, to read as follows:

393.1030. 1. The commission shall, in consultation with the department, prescribe by rule a portfolio requirement for all electric utilities to generate or purchase electricity generated from renewable energy resources. Such portfolio requirement shall provide that electricity from renewable energy resources shall constitute the following portions of each electric utility's sales:

- (1) No less than two percent for calendar years 2011 through 2013;
- (2) No less than five percent for calendar years 2014 through 2017;
- (3) No less than ten percent for calendar years 2018 through 2020; and
- (4) No less than fifteen percent in each calendar year beginning in 2021.

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At least two percent of each portfolio requirement shall be derived from solar energy. The portfolio requirements shall apply to all power sold to Missouri consumers whether such power is self-generated or purchased from another source in or outside of this state. A utility may comply with the standard in whole or in part by purchasing RECs. Each kilowatt-hour of eligible energy generated in Missouri shall count as 1.25 kilowatt-hours for purposes of compliance.

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           2. (1) Energy meeting the criteria of the renewable energy portfolio  
18 requirements set forth in subsection 1 of this section that is generated from  
19 renewable energy resources and contracted for by an accelerated renewable buyer shall:

20           (a) Have all associated renewable energy certificates retired by the accelerated  
21 renewable buyer, or on their behalf, and the certificates shall not be used to meet the  
22 electric utility's portfolio requirements pursuant to subsection 1 of this section;

23           (b) Be excluded from the total electric utility's sales used to determine the  
24 portfolio requirements pursuant to subsection 1 of this section; and

25           (c) Be used to offset all or a portion of its electric load for purposes of  
26 determining compliance with the portfolio requirements pursuant to subsection 1 of this  
27 section.

28           (2) The accelerated renewable buyer shall be exempt from any renewable energy  
29 standard compliance costs as may be established by the utility and approved by the  
30 commission, based on the amount of renewable energy certificates obtained pursuant to  
31 this subsection in proportion to the accelerated renewable buyer's total electric energy  
32 consumption, on an annual basis.

33           (3) An "accelerated renewable buyer" means a customer of an electric utility,  
34 with an aggregate load over ten megawatts in the prior calendar year, that enters into a  
35 contract or contracts to obtain:

36           (a) Renewable energy certificates from renewable energy resources as defined in  
37 section 393.1025; or

38           (b) Energy and renewable energy certificates from solar or wind generation  
39 resources located within the Southwest Power Pool region and initially placed in  
40 commercial operation after January 1, 2020, including any contract with a utility for  
41 such generation resources that does not allocate to or recover from any other customer  
42 of the utility the cost of such resources.

43           (4) Each electric utility shall certify, and verify as necessary, to the commission  
44 that the accelerated renewable buyer has satisfied the exemption requirements of this  
45 subsection for each year, or an accelerated renewable buyer may choose to certify  
46 satisfaction of this exemption by reporting to the commission individually. The  
47 commission may promulgate such rules and regulations as may be necessary to  
48 implement the provisions of this subsection. Nothing in this section shall be construed  
49 as imposing or authorizing the imposition of any reporting, regulatory, or financial  
50 burden on an accelerated renewable buyer.

51           3. The commission, in consultation with the department and within one year of  
52 November 4, 2008, shall select a program for tracking and verifying the trading of renewable  
53 energy credits. An unused credit may exist for up to three years from the date of its creation.

54 A credit may be used only once to comply with sections 393.1020 to 393.1030 and may not  
55 also be used to satisfy any similar nonfederal requirement. An electric utility may not use a  
56 credit derived from a green pricing program. Certificates from net-metered sources shall  
57 initially be owned by the customer-generator. The commission, except where the department  
58 is specified, shall make whatever rules are necessary to enforce the renewable energy  
59 standard. Such rules shall include:

60 (1) A maximum average retail rate increase of one percent determined by estimating  
61 and comparing the electric utility's cost of compliance with least-cost renewable generation  
62 and the cost of continuing to generate or purchase electricity from entirely nonrenewable  
63 sources, taking into proper account future environmental regulatory risk including the risk of  
64 greenhouse gas regulation. Notwithstanding the foregoing, until June 30, 2020, if the  
65 maximum average retail rate increase would be less than or equal to one percent if an electric  
66 utility's investment in solar-related projects initiated, owned or operated by the electric utility  
67 is ignored for purposes of calculating the increase, then additional solar rebates shall be paid  
68 and included in rates in an amount up to the amount that would produce a retail rate increase  
69 equal to the difference between a one percent retail rate increase and the retail rate increase  
70 calculated when ignoring an electric utility's investment in solar-related projects initiated,  
71 owned, or operated by the electric utility. Notwithstanding any provision to the contrary in  
72 this section, even if the payment of additional solar rebates will produce a maximum average  
73 retail rate increase of greater than one percent when an electric utility's investment in solar-  
74 related projects initiated, owned or operated by the electric utility are included in the  
75 calculation, the additional solar rebate costs shall be included in the prudently incurred costs  
76 to be recovered as contemplated by subdivision (4) of this subsection;

77 (2) Penalties of at least twice the average market value of renewable energy credits  
78 for the compliance period for failure to meet the targets of subsection 1 of this section. An  
79 electric utility will be excused if it proves to the commission that failure was due to events  
80 beyond its reasonable control that could not have been reasonably mitigated, or that the  
81 maximum average retail rate increase has been reached. Penalties shall not be recovered from  
82 customers. Amounts forfeited under this section shall be remitted to the department to  
83 purchase renewable energy credits needed for compliance. Any excess forfeited revenues  
84 shall be used by the division of energy solely for renewable energy and energy efficiency  
85 projects;

86 (3) Provisions for an annual report to be filed by each electric utility in a format  
87 sufficient to document its progress in meeting the targets;

88 (4) Provision for recovery outside the context of a regular rate case of prudently  
89 incurred costs and the pass-through of benefits to customers of any savings achieved by an  
90 electrical corporation in meeting the requirements of this section.

91       ~~[3-]~~ 4. As provided for in this section, except for those electrical corporations that  
92 qualify for an exemption under section 393.1050, each electric utility shall make available to  
93 its retail customers a solar rebate for new or expanded solar electric systems sited on  
94 customers' premises, up to a maximum of twenty-five kilowatts per system, measured in  
95 direct current that were confirmed by the electric utility to have become operational in  
96 compliance with the provisions of section 386.890. The solar rebates shall be two dollars per  
97 watt for systems becoming operational on or before June 30, 2014; one dollar and fifty cents  
98 per watt for systems becoming operational between July 1, 2014, and June 30, 2015; one  
99 dollar per watt for systems becoming operational between July 1, 2015, and June 30, 2016;  
100 fifty cents per watt for systems becoming operational between July 1, 2016, and June 30,  
101 2017; fifty cents per watt for systems becoming operational between July 1, 2017, and June  
102 30, 2019; twenty-five cents per watt for systems becoming operational between July 1, 2019,  
103 and June 30, 2020; and zero cents per watt for systems becoming operational after June 30,  
104 2020. An electric utility may, through its tariffs, require applications for rebates to be  
105 submitted up to one hundred eighty-two days prior to the June thirtieth operational date.  
106 Nothing in this section shall prevent an electrical corporation from offering rebates after July  
107 1, 2020, through an approved tariff. If the electric utility determines the maximum average  
108 retail rate increase provided for in subdivision (1) of subsection ~~[2]~~ 3 of this section will be  
109 reached in any calendar year, the electric utility shall be entitled to cease paying rebates to the  
110 extent necessary to avoid exceeding the maximum average retail rate increase if the electrical  
111 corporation files with the commission to suspend its rebate tariff for the remainder of that  
112 calendar year at least sixty days prior to the change taking effect. The filing with the  
113 commission to suspend the electrical corporation's rebate tariff shall include the calculation  
114 reflecting that the maximum average retail rate increase will be reached and supporting  
115 documentation reflecting that the maximum average retail rate increase will be reached. The  
116 commission shall rule on the suspension filing within sixty days of the date it is filed. If the  
117 commission determines that the maximum average retail rate increase will be reached, the  
118 commission shall approve the tariff suspension. The electric utility shall continue to process  
119 and pay applicable solar rebates until a final commission ruling; however, if the continued  
120 payment causes the electric utility to pay rebates that cause it to exceed the maximum average  
121 retail rate increase, the expenditures shall be considered prudently incurred costs as  
122 contemplated by subdivision (4) of subsection ~~[2]~~ 3 of this section and shall be recoverable as  
123 such by the electric utility. As a condition of receiving a rebate, customers shall transfer to  
124 the electric utility all right, title, and interest in and to the renewable energy credits associated  
125 with the new or expanded solar electric system that qualified the customer for the solar rebate  
126 for a period of ten years from the date the electric utility confirmed that the solar electric  
127 system was installed and operational.

128       ~~[4:]~~ 5. The department shall, in consultation with the commission, establish by rule a  
129 certification process for electricity generated from renewable resources and used to fulfill the  
130 requirements of subsection 1 of this section. Certification criteria for renewable energy  
131 generation shall be determined by factors that include fuel type, technology, and the  
132 environmental impacts of the generating facility. Renewable energy facilities shall not cause  
133 undue adverse air, water, or land use impacts, including impacts associated with the gathering  
134 of generation feedstocks. If any amount of fossil fuel is used with renewable energy  
135 resources, only the portion of electrical output attributable to renewable energy resources  
136 shall be used to fulfill the portfolio requirements.

137       ~~[5:]~~ 6. In carrying out the provisions of this section, the commission and the  
138 department shall include methane generated from the anaerobic digestion of farm animal  
139 waste and thermal depolymerization or pyrolysis for converting waste material to energy as  
140 renewable energy resources for purposes of this section.

141       ~~[6:]~~ 7. The commission shall have the authority to promulgate rules for the  
142 implementation of this section, but only to the extent such rules are consistent with, and do  
143 not delay the implementation of, the provisions of this section. Any rule or portion of a rule,  
144 as that term is defined in section 536.010, that is created under the authority delegated in this  
145 section shall become effective only if it complies with and is subject to all of the provisions of  
146 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
147 nonseverable and if any of the powers vested with the general assembly pursuant to chapter  
148 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
149 held unconstitutional, then the grant of rulemaking authority and any rule proposed or  
150 adopted after August 28, 2013, shall be invalid and void.

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